

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: March 6, 2018

ANALYST: Michael Beckman

I. COMMITTEE:

National Venture Capital Association
VenturePAC
C00150367
Jeff Farrah, Treasurer (6/02/16 – Present)
Bobby Franklin, Treasurer (9/25/15 –
6/01/16)
Emily Baker, Treasurer (6/18/14 –
9/24/15)
Jennifer Dowling, Treasurer (9/12/13 –
6/17/14)
25 Massachusetts Avenue, N.W.
Washington, DC 20001

II. RELEVANT STATUTES:

52 U.S.C. §30104(b)
11 CFR §104.3(a)(1)

III. BACKGROUND:

Mathematical Discrepancies (Cash-on-hand Adjustments)

National Venture Capital Association VenturePAC (“the Committee”) amended its 2014 March Monthly Report to disclose a cash-on-hand adjustment totaling \$93,339.13 made as a result of an internal audit of the Committee’s account. The Committee was not able to provide any additional information regarding the ultimate recipients of this discrepancy adjustment.

On March 20, 2014, the Committee filed the 2014 March Monthly Report covering the period from February 1, 2014 through February 28, 2014. The report disclosed \$20,562.00 in disbursements on Line 29 (Other Disbursements) of the Detailed Summary Page (Image 1496052777).

On April 18, 2014, a Request for Additional Information (RAI) was sent to the Committee referencing the original 2014 March Monthly Report, received March 20, 2014. The RAI requested clarification regarding missing purposes for itemized disbursements on Schedule B, supporting Line 29, and also advised the Committee that transactions were disclosed on the wrong line of the Detailed Summary Page (Image 14330048783).

On April 30, 2014, the Committee filed an Amended 2014 March Monthly Report. The report disclosed \$13.77 in disbursements on Line 29, moving \$20,548.23 in activity to Schedule B, supporting Line 21(b) (Other Federal Operating Expenditures) (Image 14941171689).

On August 13, 2014, the Committee filed an Amended 2014 March Monthly Report. The report disclosed no change in disbursements from the previous report (Image 14950013460).

On July 25, 2017, the Committee filed an Amended 2014 March Monthly Report. The report disclosed a disbursement on Line 29 totaling \$93,339.13 with a purpose of "Prior Period Adjustment" (Image 201707259069805394).

That same day, the Committee filed a Miscellaneous Electronic Submission ("FEC Form 99") referencing the Amended 2014 March Monthly Report, received July 25, 2017. The Committee stated, in part:

"The accounting adjustments also include a reconciling entry of \$93,339.13 in the amended 2014 March Monthly report which is described as a Prior Period Adjustment. This entry reflects the discrepancy between the PACs bank account balance and the balance it had disclosed to the FEC prior to the three-year review period. This discrepancy pre-dates the review period which was based on VenturePACs three-year recordkeeping obligations and the employment of current National Venture Capital Association personnel primarily responsible for administering VenturePAC" (Image 201707259069807478).

On December 25, 2017, an RAI was sent to the Committee referencing the 2014 Amended March Monthly Report, received July 25, 2017. The RAI asked for clarifying entries and information related to the \$93,339.13 account adjustment disclosed on the report (Image 201712250300096060).

On January 29, 2018, the Committee filed an FEC Form 99 referencing the RAI sent on December 25, 2017. The Committee stated, in part:

"In early 2017, VenturePACs connected organization the National Venture Capital Association (NVCA) retained an independent consultant to review three years of VenturePAC records and FEC reports. The consultant identified various discrepancies that VenturePAC then corrected in a comprehensive set of amended reports. However, there remained a discrepancy of \$93,339.13 between VenturePACs bank account balance and the amount disclosed on VenturePACs FEC reports.

The causes for that discrepancy are unknown: they relate to activity that preceded (a) the review period, (b) VenturePACs three-year recordkeeping obligations, and (c) the tenure of virtually all current NVCA and VenturePAC staff. Therefore, VenturePAC included a reconciling entry of \$93,339.13 in the Amended 2014 March Monthly Report to remedy the discrepancy.

In addition, VenturePAC has formalized procedures to prevent a recurrence of these problems. The procedures were based on FEC regulations, the Statement of Policy Regarding Treasurers Best Efforts To Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act, 72 Fed. Reg. 31438 (June 2, 2007), the Statement of Policy Safe Harbor for Misreporting Due to Embezzlement 72 Fed. Reg. 16695 (Apr. 5, 2007), and the Internal Controls and Political Committee guidance available at https://transition.fec.gov/law/policy/guidance/internal_controls_polcmts_07.pdf (Image 201801299090683544).

On February 8, 2018, the Reports Analysis Division Analyst (RAD Analyst) called the Committee and left a voicemail message for Jeff Farrah, the Committee Treasurer. The Analyst stated in the message that the Committee had not adequately responded to the RFAI sent to the Committee regarding the Amended 2014 March Monthly Report, received July 25, 2017, and the issue could be referred for further enforcement action to another office within the Commission. The RAD Analyst requested a call back from the Committee if they had any further questions and gave his contact information (Attachment 2).

On February 8, 2018, Caleb Burns, Legal Counsel for the Committee, called the RAD Analyst and confirmed they received the message regarding the issue on the Amended 2014 March Monthly Report. The RAD Analyst explained that the response received from the Committee on January 29, 2018, was not considered adequate because it did not provide entries that supported the \$93,339.13 adjustment disclosed on the report. The RAD Analyst explained that the issue could be referred for further action, and advised the Committee to provide any additional information for the public record through an FEC Form 99. Mr. Burns requested to speak to someone who would be able to answer more detailed questions regarding the handling of the issue within the Commission, and the Analyst gave him the phone number to a more senior Analyst in the Reports Analysis Division (Attachment 2).

On February 9, 2018, a RAD Analyst called Mr. Burns and explained that the Committee's response to the RFAI was inadequate because individual entries supporting the \$93,339.13 adjustment were not provided. Mr. Burns requested to know which enforcement branch of the Commission the matter was being referred to and was told that, per Commission procedures, the matter was being referred to the Office of General Counsel. The RAD Analyst advised Mr. Burns to provide any additional information for the public record by Monday, February 12, 2018 (Attachment 2).

To date, no further communications have been received from the Committee regarding this matter.

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F3XA	M8	N	8/19/2015	16	201508199000858213	7/31/2015	\$455,543	\$13,025	\$8,582	\$459,985	\$0
F3XA	M8	A	9/4/2015	16	201509049001614247	7/31/2015	\$455,543	\$13,025	\$8,582	\$459,985	\$0
F3XA	M8	A	7/25/2017	16	201707259069806065	7/31/2015	\$362,225	\$13,027	\$8,582	\$366,669	\$0
F3XA	M9	N	9/18/2015	13	201509189002727965	8/31/2015	\$459,985	\$24,150	\$1,083	\$483,051	\$0
F3XA	M9	A	7/25/2017	16	201707259069806088	8/31/2015	\$366,669	\$28,252	\$1,165	\$393,756	\$0
F3XA	M10	N	10/20/2015	8	201510209003160282	9/30/2015	\$483,051	\$4,854	\$2,780	\$485,125	\$0
F3XA	M10	N	7/25/2017	10	201707259069806127	9/30/2015	\$393,756	\$11,502	\$2,926	\$402,332	\$0
F3XA	M11	N	11/20/2015	9	201511209003403954	10/31/2015	\$485,125	\$10,500	\$1,577	\$494,047	\$0
F3XA	M11	A	1/8/2016	10	201601089004443600	10/31/2015	\$485,125	\$10,500	\$1,577	\$494,047	\$0
F3XA	M11	A	7/25/2017	9	201707259069806151	10/31/2015	\$402,332	\$10,502	\$1,752	\$411,081	\$0
F3XA	M12	N	12/20/2015	10	201512209004400724	11/30/2015	\$494,047	\$1,941	\$7,072	\$488,915	\$0
F3XA	YE	N	7/25/2017	9	201707259069806160	11/30/2015	\$411,081	\$2	\$7,072	\$404,011	\$0
F3XA	YE	N	1/21/2016	9	201601219004556945	12/31/2015	\$488,915	\$3,650	\$43,002	\$449,762	\$0
F3XA	M2	N	7/25/2017	10	201707259069806178	12/31/2015	\$404,011	\$2,503	\$43,075	\$363,438	\$0
F3XA	M2	N	2/17/2016	5	201602179008474975	1/31/2016	\$449,762	\$0	\$74	\$449,688	\$0
F3XA	M3	A	7/25/2017	5	201707259069806304	1/31/2016	\$363,438	\$12	\$74	\$363,376	\$0
F3XA	M3	N	3/16/2016	6	201603169009755704	2/29/2016	\$449,688	\$0	\$1,073	\$448,614	\$0
F3XA	M3	N	7/25/2017	6	201707259069806309	2/29/2016	\$363,376	\$24	\$1,073	\$362,326	\$0
F3XA	M4	N	4/19/2016	8	201604199012593837	3/31/2016	\$448,614	\$100	\$27,384	\$421,330	\$0
F3XA	M4	A	7/25/2017	8	201707259069806315	3/31/2016	\$362,326	\$132	\$27,384	\$335,075	\$0
F3XA	M5	N	5/20/2016	8	201605209015942228	4/30/2016	\$421,330	\$24,000	\$104	\$445,225	\$0
F3XA	M5	N	7/25/2017	10	201707259069806323	4/30/2016	\$335,075	\$24,038	\$515	\$358,598	\$0
F3XA	M6	N	6/20/2016	18	201606209019493819	5/31/2016	\$445,225	\$46,750	\$2,929	\$489,046	\$0
F3XA	M6	A	7/25/2017	21	201707259069806333	5/31/2016	\$358,598	\$46,789	\$2,877	\$402,510	\$0
F3XA	M7	N	7/20/2016	17	201607209021672696	6/30/2016	\$489,046	\$36,000	\$47,769	\$477,276	\$0
F3XA	M7	N	7/25/2017	19	201707259069806367	6/30/2016	\$402,510	\$36,044	\$47,822	\$390,733	\$0
F3XA	M8	N	8/18/2016	14	201608189022513208	7/31/2016	\$477,276	\$11,100	\$41,252	\$447,123	\$0
F3XA	M8	A	1/11/2017	16	201701119041363951	7/31/2016	\$477,276	\$11,100	\$41,252	\$447,123	\$0
F3XA	M8	A	7/25/2017	16	201707259069806393	8/31/2016	\$390,733	\$11,146	\$41,167	\$360,711	\$0
F3XA	M9	N	9/20/2016	17	201609209030977172	8/31/2016	\$447,123	\$67,350	\$7,081	\$507,392	\$0
F3XA	M9	A	7/25/2017	22	201707259069806440	8/31/2016	\$360,711	\$69,394	\$7,095	\$423,010	\$0
F3XA	M10	N	10/17/2016	28	201610179032888069	9/30/2016	\$507,392	\$39,100	\$65,775	\$480,717	\$0
F3XA	M10	A	3/13/2017	27	201703139050765460	9/30/2016	\$507,392	\$39,100	\$65,775	\$480,717	\$0
F3XA	M10	A	7/25/2017	29	201707259069806478	9/30/2016	\$423,010	\$39,147	\$65,845	\$396,312	\$0
F3XA	M11	N	11/16/2016	14	201611169037146087	10/31/2016	\$480,717	\$13,000	\$27,590	\$466,127	\$0
F3XA	M11	N	3/13/2017	15	201703139050765534	10/31/2016	\$480,717	\$13,000	\$27,590	\$466,127	\$0
F3XA	M11	A	7/25/2017	15	201707259069806788	10/31/2016	\$396,312	\$13,044	\$27,590	\$381,766	\$0
F3XA	M12	N	12/16/2016	16	201612169040649280	11/30/2016	\$466,127	\$20,000	\$92	\$486,034	\$0
F3XA	M12	A	3/13/2017	17	201703139050765549	11/30/2016	\$466,127	\$20,000	\$92	\$486,034	\$0
F3XA	M12	A	7/25/2017	17	201707259069806905	11/30/2016	\$381,766	\$20,045	\$92	\$401,719	\$0
F3XA	YE	N	1/30/2017	7	201701309041559433	12/31/2016	\$486,034	\$11,500	\$318	\$497,215	\$0
F3XA	YE	N	7/25/2017	9	201707259069806922	12/31/2016	\$401,719	\$11,549	\$318	\$412,950	\$0
F1A		A	12/22/2016	4	201612229040899209						
F1A		A	2/20/2015	5	15950808951						
F1A		A	6/2/2016	5	201606029017459744						
F1A		A	9/25/2015	5	201509259002779066						
Totals							\$420,431	\$320,570			

F3XA	M8	A	7/25/2017	5	201707259069805700	7/1/2014	7/31/2014	\$454,834	\$2	\$40	\$454,796	\$0
F3XN	M9	N	9/18/2014	11	14970803484	8/1/2014	8/31/2014	\$548,123	\$0	\$36,538	\$511,584	\$0
F3XA	M9	A	7/25/2017	11	201707259069805711	8/1/2014	8/31/2014	\$454,796	\$2	\$36,538	\$418,260	\$0
F3XN	M10	N	10/20/2014	20	14951771258	9/1/2014	9/30/2014	\$511,584	\$0	\$104,041	\$407,542	\$0
F3XA	M10	A	7/25/2017	20	201707259069805756	9/1/2014	9/30/2014	\$418,260	\$2	\$104,041	\$314,220	\$0
F3XN	12G	N	11/20/2014	6	14952596656	10/1/2014	10/15/2014	\$407,542	\$0	\$42	\$407,500	\$0
F3XA	12G	A	7/25/2017	6	201707259069805803	10/1/2014	10/15/2014	\$314,220	\$2	\$42	\$314,180	\$0
F3XN	30G	N	12/1/2014	6	14952667245	10/16/2014	11/24/2014	\$407,500	\$0	\$53	\$407,447	\$0
F3XA	30G	A	7/25/2017	6	201707259069805814	10/16/2014	11/24/2014	\$314,180	\$2	\$53	\$314,130	\$0
F3XN	YE	N	1/22/2015	7	15950065400	11/25/2014	12/31/2014	\$407,447	\$1,000	\$2,000	\$406,447	\$0
F3XA	YE	A	3/20/2015	9	15951083246	11/25/2014	12/31/2014	\$407,447	\$1,000	\$2,047	\$406,400	\$0
F3XA	YE	A	7/25/2017	8	201707259069805825	11/25/2014	12/31/2014	\$314,130	\$1,007	\$2,047	\$313,089	\$0
F1A		A	6/18/2014	5	14941330496							
F1A		A	9/12/2013	5	13964606679							
Totals								\$182,478	\$669,774			